



NUCLEAR REGULATORY COMMISSION

[NRC-2019-0086]

Guidance for Implementation of Changes, Tests, and Experiments

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 3 to Regulatory Guide (RG), 1.187. This Revision (i.e. Revision 3) addresses a clarification to the RG in response to post-promulgation comments on RG 1.187, Revision 2. This RG provides licensees with a method that the NRC considers acceptable for use in complying with the Commission's regulations on the process by which licensees, under certain conditions, may make changes to their facilities and procedures as described in the final safety analysis report (FSAR) (as updated) (also referred to as the updated final safety analysis report), and conduct tests or experiments not described in the FSAR (as updated), without obtaining a license amendment pursuant to NRC requirements.

DATES: Revision 3 to RG 1.187 is available on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2019-0086** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2019-0086**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; e-mail: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the

search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via e-mail at pdr.resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

Revision 3 to RG 1.187 and the regulatory analysis may be found in ADAMS under Accession Nos. ML21109A002 and ML19045A432, respectively.

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SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision in the NRC’s “Regulatory Guide” series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

RG 1.187, Revision 3, “Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments,’” addresses a clarification to the RG in response to post-

promulgation comments on RG 1.187, Revision 2 (ADAMS Accession No. ML20125A730). Specifically, this Revision (i.e. Revision 3) adds an additional clarification in section C.2.e of the RG related to the Human Factors Engineering screening examples in NEI 96-07, Appendix D, Revision 1, “Supplemental Guidance for Application of 10 CFR 50.59 to Digital Modifications,” (ADAMS Accession No. ML20135H168), that discuss an increase in response time.

II. Additional Information

Proposed Revision 2 of RG 1.187 was issued with a temporary identification of Draft Regulatory Guide (DG)-1356 (ADAMS Accession No. ML19045A435).

The NRC published a notice of the availability of DG-1356 in the *Federal Register* on May 30, 2019 (84 FR 25077) for a 45-day public comment period. The public comment period closed on July 15, 2019. Public comments on DG-1356 and the staff responses to the public comments are available in ADAMS under Accession No. ML20125A729. Based on the public comments, subsequent public meetings, and revisions to NEI 96-07, Appendix D, the NRC revised the proposed Revision 2 of RG 1.187 and issued the final Revision 2 on July 7, 2020 (85 FR 40696), with a 30-day post-promulgation public comment period. Revision 2 of RG 1.187 endorsed NEI 96-07, Appendix D, Revision 1, as a means for complying with the requirements of section 50.59 of title 10 of the *Code of Federal Regulations* (10 CFR), “Changes, tests and experiments” when conducting digital instrumentation and control (I&C) modifications, with certain clarifications. The post-promulgation public comment period closed on August 6, 2020. Post-promulgation public comments on RG 1.187, Revision 2 and the staff responses to the post-promulgation public comments are available under ADAMS under Accession No. ML21109A001.

The NRC notes that a non-concurrence on RG 1.187, Revision 2, was submitted and entered the Non-Concurrence Process (NCP) under tracking number of NCP-2020-005. The NCP form and attachments are available in ADAMS under Accession No. ML20197A381.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

Revision 3 of RG 1.187 provides guidance on complying with the requirements of 10 CFR 50.59 when performing a digital I&C modification. As explained in RG 1.187, Revision 3, licensees are not required to comply with the positions set forth in this regulatory guide. Therefore, RG 1.187, Revision 3, does not constitute backfitting as defined in 10 CFR 50.109, "Backfitting," and as described in NRC Management Directive (MD) 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests"; constitute forward fitting as that term is defined and described in MD 8.4; or affect issue finality of any approval issued under 10 CFR part 52, "Licenses, Certificates, and Approvals for Nuclear Power Plants." If, in the future, the NRC were to impose a position in this RG 1.187, Revision 3, in a manner that would constitute backfitting or forward fitting or affect the issue finality for a part 52 approval, then the NRC would address the backfitting provision in 10 CFR 50.109, the forward fitting provision of MD 8.4, or the applicable issue finality provision in part 52, respectively.

Dated: June 7, 2021.

For the Nuclear Regulatory Commission.

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